



# MILWAUKIE

*Dogwood City of the West*

## Advisory Group – Natural Resources Overlay Project

### Meeting Summary

6:30 p.m., Tuesday, September 29, 2009

(2<sup>nd</sup> Floor Conference Room, City Hall)

### In Attendance

Public: Mart Hughes, John Sehorn, Ted Evans, Gary Michael, Dick Shook, Brad Smith, Christopher Burkett, Teri Melnichuk, Charles Arnell, Don Jost, Pat Carter, Dave Bergmann, Robert Cseko, Nikki Cerra, June Silva, Don Silva, Zac Perry, Katie MacCready, Marshall Johnson, Stacey Graham, Tonia Burns, Pat Russell, Ed Hacmac, Ted Blaszak

City Staff: Brett Kelper, Katie Mangle, Nicole West

### Welcome and Project Intent

The City is conducting this project to:

- Establish a manageable regulatory process with strong natural resource protections. This is in keeping with Oregonians' decision at many levels (state, regional, community) to strike a balance between protecting natural resources and allowing development. Milwaukie is a community shaped and defined by natural resources (located on the Willamette River, with many creeks and streams flowing through).
- Come into compliance with Metro's Title 13 "Nature in Neighborhoods." As of June 1, 2009, the City has been implementing Metro's model ordinance and would like to create code amendments that are more tailored to the unique needs of the Milwaukie community.
- Address existing problems with the City's Water Quality Resources code (Milwaukie Municipal Code Section 19.322) and ensure that the new Title 13 rules provide a clear and manageable process for property owners.
- Educate citizens about the rules and regulations that apply to designated natural resources on their property.

### Introductions

*(Each individual introduced him/herself and described where they live and their interest in the project.)*

Approximately 25 people participated, with about half representing various private property owner interests and half representing such entities as the Portland Waldorf School, North Clackamas School District, Wetland Conservancy, Clackamas County Soil and Water Conservation District, Milwaukie Presbyterian Church, North Clackamas Parks and Recreation District, Milwaukie Riverfront Board, and Milwaukie Parks and Recreation Board.

### Questions?

***Q: Does Metro have the authority to approve or disapprove whatever we come up with? Will Metro be included in this project along the way or only invited to evaluate the outcome?***

A: Metro will evaluate the City's amendments for "substantial compliance" with Title 13. The City will keep Metro informed of our progress as the project unfolds, to ensure that there are no surprises or wasted efforts.

***Q: When you say "development," are you referring to the construction of new structures, changes to existing structures, or landscaping and other non-building activities?***

A: Broadly, "development" refers to new structures and some additional construction activities. The project itself will further define the answer to the question of what types of activity will be subject to the new regulations.

***Q: When will I know how this project and the new regulations will affect my property?***

A: Once we get a good working draft of the code amendments, we will be able to "test drive" them in different scenarios to see how they will affect properties. We hope to be able to test the draft code amendments before the end of the year.

***Q: How many property owner notices were sent out?***

A: More than 600 people (approximately 730, in fact) were sent notice of this project as property owners or residents of properties that will be affected by the new regulations.

## **Project Overview**

To clarify, this project will take a macro perspective of natural resource issues and will not focus on the very specific interests mentioned during introductions (i.e., the Milwaukie Light Rail and Kellogg Dam removal). People interested in those specific issues should contact the appropriate City staff to get involved with a particular issue.

The City is working with a consultant from Angelo Planning Group in Portland, who has experience helping other cities (Happy Valley, Wilsonville) develop code to come into compliance with Metro's Title 13. City staff will work with the consultant to:

- Flesh out the history of the City's existing Water Quality Resource (WQR) regulations, identifying problems and pieces that do not work well or are confusing.
- Examine Metro's model ordinance to identify which pieces will work within the context of Milwaukie.
- Analyze Metro's existing Habitat Conservation Area (HCA) map, making corrections to areas that are designated incorrectly.
- Blend the pre-existing Water Quality Resource regulations with Metro's model ordinance to create a new overlay for the City's zoning map and make amendments to the City Code (particularly Section 19.322, where the WQR rules are found).
- Develop a draft of this new blended ordinance to "test drive" with the Advisory Group.

## **Schedule and Role of the Advisory Group**

- The consultant has started work on the first draft of the new ordinance and aims to have a first draft ready for staff sometime in October. After a preliminary review and revisions, a new draft will be forwarded to the Advisory Group, hopefully by late November or early December. Staff will then convene the Advisory Group to discuss the draft and "test drive" it through a few scenarios.

- The Advisory Group will advise City staff and the Planning Commission on this project by identifying and discussing key issues and working to correct problems with the draft code and HCA map.
- Staff will organize a tour of some affected HCA properties so that the Advisory Group can get a better sense of the types of situations the new code will affect. The tour will be arranged for sometime in October or early November.
- A public open house will be organized once the draft code amendments are ready to share with the broader community, most likely in January or February 2010. Affected property owners and residents will receive invitations to attend and provide feedback on the proposed regulations, providing an opportunity for those who opt not to participate in the Advisory Group to have input in the process before the new rules are adopted.
- If the project stays on schedule, the adoption process for the new regulations would begin next spring, with the new rules in effect by the summer.

### **Additional Questions and Discussion:**

***Q: How will all of this information be disseminated to the public? Will these draft documents be on the City's website?***

A: The City has developed a website to keep the public updated about this project: <http://www.ci.milwaukie.or.us/milwaukie/projects/naturalresources/naturalresourcesproject.html>. Or look for the link in the "Current Projects" section of the City's homepage, [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org). Information specific to the Advisory Group, such as meeting invitations and summaries, draft amendments, etc., will be sent to group members via e-mail or regular mail.

***Q: Is the existing City Code available online?***

A: There is a link the City Municipal Code from the "Quick Links" section of the City's webpage. Or go directly to: <http://www.qcode.us/codes/milwaukie/>. The current Water Quality Resource regulations are found in Title 19 (Zoning), Chapter 300 (Use Zones), Section 19.322.

***Q: How will this ordinance work with the Willamette Greenway overlay?***

A: The Willamette Greenway overlay deals with some State regulations and will not be the focus of this project. We will have the option to include references to the Willamette Greenway in the new regulations.

***Q: Will there be a stair-step of regulations based on the value of the designated HCA resource (High, Moderate, or Low)?***

A: Yes, the value of the designated HCA resource(s) on a property will have some bearing on how the new regulations affect the property. City staff and the consultant will maintain hierarchy of regulations suggested in the model code when drafting the new regulations.

***Q: Will there be continuity between the City's new regulations and the Title 13 rules established by Clackamas County Service District No.1 (CCSD1), Water Environment Services (WES), and other jurisdictions that border Milwaukie? It seems like there should be coordination with CCSD1 in light of the Watershed Action Plan that WES just completed.***

A: We do need to ensure there is continuity and inter-jurisdictional communication as part of this project. The City has invited participation in this project from CCSD1 and will continue to identify areas where there should be coordination with adjacent jurisdictions.

***Q: Can you provide a copy of the proposed changes? Perhaps a copy of the old ordinance with “flags” on the areas to be changed?***

A: When the draft code amendments are ready for review, they will be presented in an “underline-strikeout” format that includes commentary in the sidebar. Staff will strive to make all proposed changes clear to the Advisory Group during the review. The draft code amendments will be provided to the Advisory Group and will likely also be available on the project website.

## **Errors in Mapping HCAs**

*(Staff passed around maps of three specific areas to show examples of perceived errors in the proposed HCA maps.)*

One participant reported that he had noticed similar HCA mapping errors with regards to his property and attempted to bring this to Metro’s attention. He was told that the tree canopy could be expanded up to 30% and in the end was unable to have the mapping of his property reflect what he believes to be true. **Mr. Kelder** explained that Metro’s model code does provide a process for addressing map errors but that it is rigorous, which is why the City aims to identify and change as many of these types of errors as possible before the new ordinance and map are adopted.

### **Questions and Discussion**

***Q: Is the City interested in correcting areas of the map that have not been designated as HCAs but do provide quality habitat (i.e., adding HCAs to the map)?***

A: This is a great question that may get clearer as the project evolves. If it proves to be as easy to add HCAs as it is to remove them from the map, then it might be worth tackling this issue now. If adding HCAs is a much more rigorous process and requires significant analysis, it may not be feasible for the City to make additions at this time.

***Q: Again, how will the quality of the HCA area affect the hoops that property owners go through?***

A: The level of regulation for these various HCA designations (High, Moderate, Low) is something that the Advisory Group can discuss as we get farther into the project. There will be distinct land use permitting processes (“discretionary” versus “clear and objective”) available for proposed development. One of the goals of this project is to create a conceptual model that provides flexibility within these processes.

***Q: Does the City have any intent to create incentives for property owners to elect greater protection of HCA areas on their property?***

A: The zoning code is a tool designed to protect the common good by regulating certain activities, and this project will focus on developing regulations for natural resources. We will aim to identify and remove code language that blocks or inhibits conservation and restoration activities so that the code at least does not make it harder to do those things. However, other programs and agencies are probably better positioned to provide direct incentives for conservation and restoration activities (with grants, technical support, etc.).

***Q: Will this ordinance affect floodplain policies that Goal 5 did a poor job of defining?***

A: The City updated its flood hazard regulations (Title 18 of the municipal code) in 2008. Staff can ask the consultant to explain the relationship between the new rules, the existing WQR regulations, and Goal 5.

***Q: How far is the City interested in pursuing out-of-the-box ideas, i.e., developing a conservation strategy for setting up easements, partnerships, or management plans for citizens that may view their land as something to conserve rather than develop?***

A: Restoration activities are already largely exempt from both the existing WQR and proposed HCA regulations. But this is an excellent comment. Given that there are a number of natural resource management agencies and organizations represented in the Advisory Group, this project may generate new ideas and connections around this question that can be pursued further. We should all keep this in mind as we proceed.

## **Next Steps**

- Staff will schedule a tour of some affected HCA properties, probably on a Saturday morning in October or early November. Potential sites include the restoration area at Milwaukie Presbyterian Church, the northern portion of North Clackamas Park, various residential properties in the Island Station neighborhood, industrial properties (perhaps on International Way), and other constrained or protected sites.
- Subsequent meetings of the Advisory Group will be on an as-needed basis, to do the tour and then later to review and discuss the draft code amendments. Tuesday evenings seem to work well for everyone, and the location will be determined.
- City staff will assume that all who attended (as well as those who expressed interest earlier but could not make it to the meeting) want to continue to be involved. Your name will remain on the contact list unless you inform staff otherwise.

**The meeting adjourned at approximately 8:15 p.m.**